

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:09-cr-290-2

v.

HON. JANET T. NEFF

JEFFREY DARNELL JOHNSON,

Defendant.

MEMORANDUM OPINION AND ORDER

Defendant Jeffrey Darnell Johnson has filed a motion for modification or reduction of sentence (Dkt 484) pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

However, the defendant is ineligible as the ruling at the time of sentencing applied the guideline at U.S.S.G. § 2D1.1 wherein amounts of cocaine base were equivalent to amounts of cocaine powder, a 1 to 1 ratio, which is more beneficial to the defendant than the retroactive amendment. Application of the retroactive amendment would not result in a lower sentence.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 484) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

DATED: January 27, 2012

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge